

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7446

BILL NUMBER: HB 1564

NOTE PREPARED: Jan 26, 2015

BILL AMENDED:

SUBJECT: Various Military Matters.

FIRST AUTHOR: Rep. Carbaugh

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- (1) Provides for the rights, benefits, and protections of the federal Servicemembers Civil Relief Act (Act) to apply to members of the armed forces on active duty or, if applicable, the spouse or dependent of a member of the armed forces on active duty. (Current law provides for the rights, benefits, and protections of the Act to apply to members of the Indiana National Guard on active duty.)
- (2) Changes references to the federal Soldiers' and Sailors' Civil Relief Act to the federal Servicemembers Civil Relief Act.
- (3) Creates the Indiana Servicemembers Civil Relief Act.
- (4) Provides that protections under the Indiana Servicemembers Civil Relief Act shall supplement protections for servicemembers under the federal Act.
- (5) Requires, under certain circumstances, the Department of Workforce Development (DWD) to give a member of the armed forces of the United States or Reserve Component of the armed forces of the United States (or their spouse) priority for placement in any federal or state employment or training program administered by the DWD. (Current law provides that this priority be given only to members of the National Guard or their spouses.)
- (6) Changes the name of the National Guard Tuition Supplement Program to the Reserve Component Tuition Supplement Program and allows members of the Indiana reserve component of the armed forces to receive a scholarship from the program.
- (7) Makes certain changes to the National Guard Tuition Supplement Program and provides funding for the program.
- (8) Provides employment protections for veterans.
- (9) Creates a private right of action for veterans regarding employment law violations.

(10) Allows members of the uniformed services to receive a leave of absence from work for purposes of medical treatment for certain wounds, injuries, or illness.

(11) Makes an appropriation.

Effective Date: July 1, 2015.

Summary of NET State Impact: The following table illustrates the major provisions of the bill that have a fiscal impact on the state.

Bill Provision	Annual Impact Starting in FY 2016
Postsecondary Institution Tuition Benefit Impact on State Expenditures	(\$2.4 M and \$3.7 M)
Deduction for Military Pension and Survivor's Benefits Impact on the General Fund	(\$21.6 M)
Total Impact	(\$24.0 M to \$25.3 M)

Explanation of State Expenditures: *Summary:* This bill could increase state expenditures between \$2.4 M and \$3.7 M annually to provide reserve members of the armed forces the same tuition benefit as members of the Indiana National Guard. There is annually appropriated to the tuition supplement program fund from the state general fund an amount necessary to fully fund scholarships provided under this chapter.

The state may also impact the workload of (1) the Office of the Attorney General, (2) the Civil Rights Commission, (3) the Department of Workforce Development, (4) the Department of Natural Resources, and (5) the Indiana Department of Veterans' Affairs.

Additional Information:

Reserve Component Tuition Supplement Program: The program currently pays the tuition and fees for members of the Indiana National Guard who attend a state educational institution. For FY 2014 there were 773 members who received scholarships of about \$4,512 on average. The total expenditures for national guard scholarships were about \$3.5 M in FY 2015. For 2014, the Indiana National Guard maintained approximately 14,000 air and army guardsmen and women. Utilization rate of the program is estimated to be approximately 5.5% annually of the total population of National Guardsmen and women.

There are approximately 25,000 reservists in the state. Assuming a similar utilization rate for scholarships offered to reservists, approximately 1,375 individuals could receive state scholarships under the bill. These scholarships could increase state expenditures by about \$2.4 M to \$3.7 M annually. The actual impact will depend on how many reservists elect to attend state-funded postsecondary institutions under a state scholarship as opposed to other scholarships offered to members of the armed forces.

Servicemembers Civil Relief Act -

Office of the Attorney General: The bill may result in additional actions brought by the Attorney General against a person that violates Indiana's Civil Relief Act. The Office of the Attorney General should be able to implement this provision with no additional appropriations.

Penalty Provision: The bill makes it a Level 6 felony (perjury) to make or use an affidavit permitted under the federal Servicemembers Civil Relief Act that is false. A Level 6 felony is punishable by a prison term ranging from 6 to 30 months or reduction to a Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, marginal expenditures for medical care, food, and clothing could increase. However, any additional expenditures are likely to be small.

Department of State Revenue (DOR): The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to reflect the changes to the military income deduction. The DOR's current level of resources should be sufficient to implement these changes.

Employment Discrimination against Reservists: The bill affects the state as an employer.

The bill precludes employers from asking an applicant for employment whether the applicant is a member of a reserve component. The bill requires the Indiana Civil Rights Commission to enforce alleged violations of the practice. These requirements are within the Indiana Civil Rights Commission's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Priority of Placement: Currently, the Department of Workforce Development (DWD) provides priority for placement (more commonly referred to as "Priority of Service") for employment services to qualified National Guard members and spouses as well as to qualified members of the United States Armed Services and Reservists, according to the Jobs for Veterans Act of 2002 (JVA). The JVA requires Priority of Service to qualified Armed Service and Reserve members, which include those individuals serving on active duty.

The JVA currently requires Priority of Service only for certain qualified spouses. These qualified spouses may receive eligibility from a living veteran (in the cases of service members missing in action or veterans with total service-connected disability) or from deceased veterans who died of a service-connected disability.

The bill will require Priority of Service for all active duty United States Armed Service and Reserve members, as well as their spouses. These spouses of active duty members do not qualify as qualified spouses according to the U.S. Department of Labor. Therefore, this could increase the number of individuals eligible for priority of service through DWD. Regardless, the bill's requirements should fall within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues: Summary: The changes to the deduction for military pension and survivor's benefits are expected to decrease General Fund revenue by \$21.5 M in FY 2016 and \$21.7 M in FY 2017.

The bill could also increase state revenue received from civil and criminal court fees and potential fines assessed for cases of denying assembly of a National Guard member and other violations of the Servicemembers Civil Relief Act. Increases in revenue are indeterminable.

Additional Information:

Military Income Deduction: The bill increases the military income deduction and extends it to taxpayers who are currently not eligible for the deduction. These changes would be effective beginning in tax year 2015,

with the full revenue impact beginning in FY 2016. The estimated revenue loss in FY 2016 and FY 2017 is summarized in the table below. The revenue loss could remain flat or grow by up to 1% annually thereafter. The following table summarizes the estimated revenue loss.

Type of Military Income	FY 2016 Revenue Loss (in millions)	FY 2017 Revenue Loss (in millions)
Military Pension (Retirees 60 years old or older)	\$4.6	\$4.6
Military Pension (Retirees under 60 years old)	4.5	4.5
Survivor's Benefit (Survivors 60 years old or older)	0.5	0.6
Survivor's Benefit (Survivors under 60 years old)	0.6	0.7
Full-Time Active Duty Pay	5.0	5.0
Armed Forces Reserve/National Guard Regular Pay	6.3	6.3
Total	\$21.5	\$21.7

The bill also does the following:

- (1) It extends the individual adjusted gross income (AGI) deduction for military pension and survivor's benefits to individuals receiving these benefits who are under the age of 60 beginning in 2016.
- (2) It increases the individual AGI deduction for military pension and survivor's benefits from a maximum of \$5,000 to \$15,000 beginning in 2015.
- (3) It increases the individual AGI deduction for military service pay earned by individuals who are members of an active or reserve component of the U.S. armed forces. The deduction would be increased from a maximum of \$5,000 to \$15,000 beginning in 2015.

Current statute provides an AGI deduction for the first \$5,000 of income earned by an individual for his or her service in an active or reserve component of the U.S. armed forces, including the National Guard. The \$5,000 deduction also applies to military retirement income or survivor's benefits received by a taxpayer who is 60 years old or older. Current statute also provides a full deduction for active duty pay earned by members of the Armed Forces Reserve or National Guard in lieu of the deduction for military service income described above. (Note: Combat pay is already excluded from federal gross income and, as a result, is excluded from Indiana AGI.)

Denying Assembly of a National Guard Member- Under current law, an employer cannot prevent an Indiana National Guard (ING) member from attending, as a matter of duty, an assembly of their Guard unit. The penalty to an employer for doing so is a Class B misdemeanor. The bill would expand that penalty to cover any National Guard member working for an Indiana employer. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

Servicemembers Civil Relief Act -

Court Fee Revenue: The bill allows the Attorney General to bring a civil action to enforce Indiana's Civil Relief Act. As a result, there may be additional civil actions. Actual increases in court fee revenue from these cases are indeterminable. The Attorney General is not required to pay a civil filing fee. However, if the Attorney General prevails in a lawsuit, the defendant in the case is required to pay all court fees.

The bill also allows an individual who served on active duty in the armed forces of the United States or that individual's spouse or dependent to bring an action in a state court for violations of the federal Soldiers' and Sailors' Civil Relief Act. Actual increases in court fee revenue would depend on the number of actions filed in state courts rather than in federal courts.

Revenue to the state General Fund may increase as a result of any additional civil actions and court fees. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation to assist with pro bono legal services programs in Indiana. Proceeds from the automated record keeping fee (\$5) are deposited into the State User Fee Fund. Additional fees may be collected at the discretion of the judge.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) could increase. The maximum fine for a Level 6 felony is \$10,000. However, any additional revenue would likely be small.

Explanation of Local Expenditures: Summary: This bill could increase local expenditures to house individuals (1) prior to court hearings for Level 6 felonies and (2) found guilty of Class B misdemeanors created by the bill. Actual increases in local expenditures are unknown.

Additional Information:

Denying Assembly of a National Guard Member- A Class B misdemeanor is punishable by up to 180 days in jail.

Servicemembers Civil Relief Act - Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: Summary: This bill could decrease annual local revenue from local option income tax (LOIT) by \$9.5 M in FY 2016 and by \$9.6 M in FY 2017. The bill could also increase local revenue from civil and criminal court fees. However, any additional revenue would likely be small.

Additional Information:

Military Income Deduction: Because the changes to the military income deduction will decrease taxable

income, counties imposing local option income taxes could potentially experience a decrease in revenue from these taxes. Based on the current average LOIT rate of 1.45%, the estimated revenue loss in FY 2016 and FY 2017 is summarized in the table below. The revenue loss could remain flat or grow by up to 1% annually thereafter. The following table summarizes the estimated revenue loss.

Type of Military Income	FY 2016 Revenue Loss (in millions)	FY 2017 Revenue Loss (in millions)
Military Pension (Retirees 60 years old and older)	\$2.0	\$2.0
Military Pension (Retirees under 60 years old)	2.0	2.0
Survivor's Benefit (Survivors 60 years old or older)	0.2	0.3
Survivor's Benefit (Survivors under 60 years old)	0.3	0.3
Full-Time Active Duty Pay	2.2	2.2
Armed Forces Reserve/National Guard Regular Pay	2.8	2.8
Total	\$9.5	\$9.6

Denying Assembly of a National Guard Member- If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

Servicemembers Civil Relief Act -

Court Fee Revenue: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge. Persons filing a civil cases are also required to pay document storage fees (\$2), document fees (\$1 per document), and service fees (\$10) that are deposited in local funds.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees.

State Agencies Affected: Department of Workforce Development, Department of Veterans' Affairs, Indiana Civil Rights Commission, Office of the Attorney General, Department of Revenue.

Local Agencies Affected: All.

Information Sources: Michelle Marshel, DWD, mmarshel@dwd.in.gov; Indiana Department of Workforce Development (www.in.gov/dwd/2424/htm); U.S. Department of Labor (www.doleta.gov/programs/vets); Department of Defense 2014 Military Pay Information; Indiana National Guard Strength Numbers, 2014; 2014 Indiana veterans population estimate from Veterans' Administration VETPOP2014 projection on the website at: http://www.va.gov/vetdata/Veteran_Population.asp; U.S. Department of Defense, Defense

Manpower Data Center; OFMA Income Tax Return databases.

Fiscal Analyst: Bill Brumbach, 232-9559; Bob Sigalow, 232-9859; Randhir Jha, 232-9556; Stephanie Wells, 232-9866; Chris Baker, 232-9851; Chuck Mayfield, 232-4825; Lauren Tanselle, 232-9586.